

Sérial No. 10/064,193

RD-28,139

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor: Demuth et al.

Serial No.: 10/064,193

Group Art Unit: 3617

Filed: June 20, 2002

Examiner: McCarry, Jr.

Title: Method And Apparatus For
Railcar Data Acquisition And
Communication

Response to Paper No. 4

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT UNDER 37
C.F.R. §1.8(b)

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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GROUP 3600

Sir:

In accordance with 37 C.F.R. § 1.8(b), Applicant respectfully requests that the U.S. Patent and Trademark Office (PTO) withdraw the holding of abandonment of the above-identified patent application.

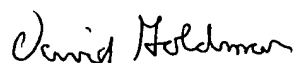
The PTO mailed Applicant an office action (Exhibit A) for the application on March 28, 2003. A reply to the office action was due in the PTO on or before June 28, 2003. Applicant transmitted by facsimile to the PTO a reply (Exhibit B) to the office action on June 5, 2003. Attached hereto is a statement (Exhibit C) from Mr. George Charles Goodman, Applicant's representative who prepared the reply to the office action, attesting on a personal knowledge basis to the timely sending of the reply by facsimile transmission. In support of the statement from Mr. Goodman is a copy of the sending unit's report (Exhibit D) confirming transmission of the reply to the PTO. Applicant received a Notice Of Abandonment (Exhibit E) dated November 5, 2003, indicating that the application is abandoned.

I hereby certify that this correspondence is being
deposited with the United States Postal Service
with sufficient postage as first class mail in an
envelope addressed to: Assistant Commissioner
for Patents, Washington, D.C. 20231, on

November 13, 2003
Date of Deposit
VIVIAN BRANDON
Type or Print Name
[Signature]
Signature

These facts and exhibits show that Applicant transmitted by facsimile a timely reply to the office action and that it was received by the PTO prior to issuing the Notice of Abandonment. In light of these facts and exhibits, Applicant submits that the PTO erroneously abandoned the application. Accordingly, Applicant requests that the PTO withdraw the holding of abandonment so that Examiner McCarry can consider the application on its merits.

Respectfully submitted,



David C. Goldman
Attorney for Applicant
Registration No. 34,336

Schenectady, New York
Dated: November 12, 2003



UNITED STATES PATENT AND TRADEMARK OFFICE

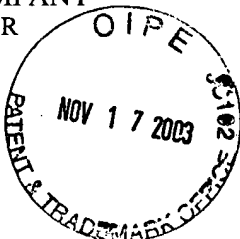
UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

A. Hegosh
Due - 6-28-03

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/064,193	06/20/2002	Russell Stephen Demuth	RD28139	2807

6147 7590 03/28/2003

GENERAL ELECTRIC COMPANY
GLOBAL RESEARCH CENTER
PATENT DOCKET RM. 4A59
PO BOX 8, BLDG. K-1 ROSS
NISKAYUNA, NY 12309



EXAMINER

MCCARRY JR, ROBERT J

ART UNIT PAPER NUMBER

3617

DATE MAILED: 03/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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EXHIBIT A

Office Action Summary

Application No.

10/064,193

Applicant(s)

DEMUTH ET AL.

Examiner

Robert J. McCarry, Jr.

Art Unit

3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-36 are rejected under 35 U.S.C. 102(b) as being anticipated by Curtis (US 6,081,769).

Curtis discloses a single wire data acquisition and communication apparatus for a railcar. The data acquisition acquires the data from either end of the train of railcars and transmits and receives the information wirelessly via satellite. Pressure sensors are situated on the train and work in data acquisition of information to send from one end of the train to the locomotive to a touch pad display so the operator can monitor the pressure of the brakes throughout the line of vehicles.

Regarding claims 19 to 36 drawn to the method of operating. It is inherent that since the apparatus is disclosed the same method of operating would be used.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Vogt (US 5,740,992), Halvorson et al (US 6,360,998) and Diana et al (US 6,421,587) all disclose types of data acquisition and communication systems.

Art Unit: 3617

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. McCarry, Jr. whose telephone number is (703) 305-0581. The examiner can normally be reached on Monday through Friday 8:00am to 5:00pm.

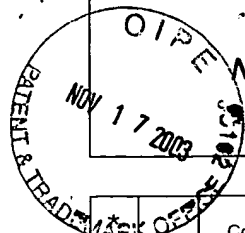
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joseph Morano can be reached on (703) 308-0230. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

RJM
March 20, 2003

S. JOSEPH MORANO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

RJM
ROBERT J. McCARRY, JR.
PATENT EXAMINER
3617



Notice of References Cited

Application/Control No.

10/064,193

Applicant(s)/Patent Under

Reexamination
DEMUTH ET AL.

Examiner

Robert J. McCarry, Jr.

Art Unit

3617

Page 1 of 1

U.S. PATENT DOCUMENTS

		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
/	A	US-5,740,992	04-1998	Vogt, Ulrich P.	246/122R
/	B	US-6,081,769 A	06-2000	Curtis, Dwight D.	702/158
/	C	US-6,360,998 B1	03-2002	Halvorson et al.	246/122R
/	D	US-6,421,587 B2	07-2002	Diana et al.	701/19
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.



FAX TRANSMITTAL SHEET

Date: June 5, 2003
To: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450
Fax: (703) 305-7687
(TC 3617 Before Final)
From: George Goodman
Phone: (518) 542-6453
No. of Pages: 10 (including this sheet)

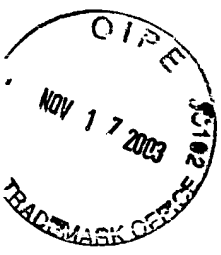
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Comments:

Application No.:	10/064,193	Art Unit:	3617
Applicant(s):	Demuth, et al.	Examiner:	Robert J. McCarry, Jr.
Filing Date:	June 20, 2002	* Response to:	Paper No. 2.

Title: METHOD AND APPARATUS FOR RAILCAR DATA ACQUISITION AND
COMMUNICATION

EXHIBIT B



Serial No. 10/064,193

RD-28,139

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor: Demuth et al.

Serial No.: 10/064,193

Group Art Unit: 3617

Filed: June 20, 2002

Examiner: McCarry, Jr.

Title: Method And Apparatus For
Railcar Data Acquisition And
Communication

Response to Paper No.: 4

A STATEMENT FROM GEORGE CHARLES GOODMAN

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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Sir:

I, George Charles Goodman, of 1187 Hillside Avenue, Apartment 3B28, Niskayuna, NY, 12309 state that:

The General Electric Company acting through its Global Research unit, hired me to respond to an office action, mailed from the U.S. Patent and Trademark Office (PTO) on March 28, 2003, for the above-identified patent application.

I had an interview with Examiner McCarry on June 4, 2003 to discuss the patentability of the application in light of the prior art applied in the office action.

I prepared a reply to the office action after speaking with Examiner McCarry.

 I sent the reply by facsimile transmission to the PTO on June 5, 2003. The reply contained a certification of facsimile transmission on the first page with my name and signature listed thereon.

The sending unit generated a report confirming transmission of the reply to the PTO. A copy of this report is attached to this statement.

By: 

George Charles Goodman

Dated: 11/12/03

EXHIBIT C

*** TX REPORT ***

TRANSMISSION OK

TX/RX NO	0114
CONNECTION TEL	
SUBADDRESS	
CONNECTION ID	
ST. TIME	06/05 13:42
USAGE T	15'25
PGS. SENT	10
RESULT	OK

EXHIBIT D



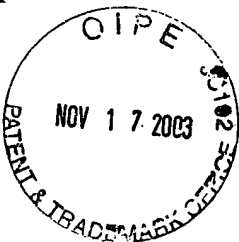
UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/064,193	06/20/2002	Russell Stephen Demuth	RD28139	2807

6147 7590 11/05/2003

GENERAL ELECTRIC COMPANY
GLOBAL RESEARCH CENTER
PATENT DOCKET RM. 4A59
PO BOX 8, BLDG. K-1 ROSS
NISKAYUNA, NY 12309



EXAMINER

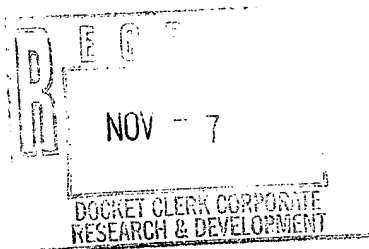
MCCARRY JR, ROBERT J

ART UNIT PAPER NUMBER

3617

DATE MAILED: 11/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.



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EXHIBIT E

NOV 17 2003
 OIPE
 3102

Notice of Abandonment

Application No.

10/064,193

Examiner

Robert J. McCarry, Jr.

Applicant(s)

DEMUTH ET AL.

Art Unit

3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 28 March 2003.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection. (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

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GROUP 3000

ROBERT J. MCCARRY, JR.
 PATENT EXAMINER

3617
 11/03/03

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.